

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-2, 4-5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Mansour, et al reference in view of the Nahrstedt reference, and further in view of the U.S. patent to Campanella.

Claim 6 is rejected under 35 U.S.C. 103(a) over the above mentioned references, and further in view of the U.S. patent to Lou, et al.

Also, the Examiner objected to the drawings and claim 8.

In connection with the Examiner's objection to the drawings and claim 8, claim 8 has been amended correspondingly. It is noted that claim 8 as amended covers now both embodiments shown in Figures 1 and 3. The receiver has a demodulation unit 5 and a decoding unit 6 for the main data stream HD in accordance with the embodiment of Figure 1, or it has a demodulating unit 8 and a decoding unit 9 for the main data stream HD and the auxiliary data stream (ZD) in accordance with the embodiment of Figure 3.

It is believed that the drawing clearly shows now the subject matter of claim 8, in particular the receiver with the corresponding elements as required

by the Examiner and as defined in claim 8. It is therefore believed that the Examiner's grounds for the objection to the drawings and claim 8 should be considered as not tenable and should be withdrawn.

Turning now to the Examiner's rejection of the claims over the art, it is respectfully submitted that in connection with the Examiner's rejection of the claims over the combination of the Mansour reference with the Nahrstedt reference, it should be noted that the Mansour reference discloses transmission of a first and a second class of bit streams on different subbands of the same FM carrier. These bit streams have different error protections. In the device disclosed in the Mansour reference it is clear that both bit streams belong together as they are modulated on the same carrier. The Mansour reference fails to use different broadcast channels which are independent from each other. Only with the aid of the signaling information in the currently amended claims it is indicated that there is a relation between these two channels.

The Nahrstedt reference discloses that a voice signal is separated into multiple data streams with different priorities. Low-priority packets are discarded during periods of congestion. The Nahrstedt reference does not disclose that an auxiliary data stream is provided and does not indicate to which core data stream this auxiliary data stream belongs.

The patent to Campanella applied against the claims in combination with other references discloses time division bit streams which can be associated by an indicator.

In order to patentably distinguish the present invention from the prior art, the claims have been amended to make clear that the main data stream and the auxiliary data stream are accommodated in independent AM frequency channels of a predetermined broadcast channel raster.

None of the references teaches the above mentioned new features of the present invention which are now defined in the amended claims. The references do not contain any hint or suggestion for these new features.

In connection with the Examiner's rejection of the original claims as being obvious under 35 U.S.C. 103, it is respectfully submitted that it can not be considered as obvious to arrive at the present invention from the references, since the references do not disclose the new features of the present invention as defined in the amended claims, and it would be necessary for a person skilled in the art to modify the references by including into them the new features of the present invention which are now defined in the amended claims and which were first proposed by the applicant. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals, which for example, held in its decision in *re Randolph and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

It is therefore to be clear that the independent claims currently on file should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on the corresponding independent claims, they share their allowable features, and therefore it is respectfully submitted that they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by

Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

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